



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,603	08/04/2003	John Francis Baxter JR.	21901	1602
21901	7590	09/25/2006	EXAMINER	
SMITH HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677			GORT, ELAINE L	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,603

Applicant(s)

BAXTER, JOHN FRANCIS

Examiner

Elaine Gort

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 8-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,31 and 33 is/are rejected.
- 7) ☐ Claim(s) 3,7,32,34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/7/04; 9/11/03; 8/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 8-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/6/06.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-6, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall (US 2004/0019524) in view of Collins-Rector et al. (US Patent 6,188,398).

Marshall discloses a method of presenting purchasing information within a DVD having video content (see paragraph 0041) comprising the steps of : identifying product sought to be sold (paragraph 0012), capturing at least one frame of the video content showing the product (figure 4 and paragraphs 0029-0030), graphically modifying the frame to enhance the presence of the product (figure 4 graphically enhances the frame by reducing the view and adding a title), creating a menu interface with the frame (figure 4 adding of menu of product information in scene 15 and 16), creating a selectable menu button associated with the product (figure 4 creates numbered indicators for items shown as 17), creating a second menu having purchasing information for the product

(such as menu shown in figure 5 giving product information 20 and ability to visit product web page 21), the second menu displayed responsive to the activation of the button (figure 5 is shown in response to the selection of the numerical identification 17, see also paragraph 0029);

(regarding claim 2) where the selectable menu button is defined by an image of the product (see figure 4 where the numerical identification 17 is defined by the images within the frame);

(regarding claim 4) the step of presenting a plurality of modified frames associated with a plurality of different products on at least one menu (see figure 3);

(regarding claim 5) the step of generating submenus for the plurality of different products, each submenu displaying additional detail on the associated product (see figure 5 menu giving product information and link to product web page having additional detail on the associated product);

(regarding claim 31) where the advertising content recorded on the disc and delivered to the viewer is recorded on a storage means (the DVD disclosed in paragraph [0014] and [0041] is construed as a "storage means");

(regarding claim 33) where the advertising content is theatrical trailers for motion picture productions (paragraph [0041] discloses the placement of the motion picture product catalog on the same DVD as a movie and therefore is construed to be a "theatrical trailer" for a motion picture production); and

(regarding claim 6) dividing a feature into a plurality of chapters (for example the feature is divided by scenes as shown in figure 3), generating a menu background of

each individual chapter (generating of the frame as shown in all of figure 4 for each scene), inserting at least one product information button over the menu background (such as the inserting of the numerical identification 17 numbers shown in the image on the frame of figure 4), responsive to the activation of the at least one product information button linking to a product information menu having data on at least one product in the individual chapter played in the menu background (activation by selection of numerical identification 17 links to a product information menu, shown on figure 5 and product web page, having data on the product in the chapter played in the menu background).

Allowable Subject Matter

4. Claims 3, 7, 32, 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3627

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is 571/272-6781. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571/272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Elaine Gort
Primary Examiner
Art Unit 3627

September 16, 2006